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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,126	03/26/2004	Norman I. Bruckner		8823

7590 09/20/2005

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EXAMINER

NEPVEUX, FELIX JOSEPH

ART UNIT	PAPER NUMBER
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1617

DATE MAILED: 09/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/810,126	Applicant(s) BRUCKNER ET AL.	
	Examiner Felix J. Nepveux	Art Unit 1617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 7-9 and 15-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 10-14 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

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DETAILED ACTION

Claim Objections

Claims 1, 2, 4, 5, 10, 12, and 13 are objected to because of the following informalities: "Alphatic" is misspelled; Examiner suggests replacing "alphatic" with the word "aliphatic." Appropriate correction is required.

Response to Arguments

Applicant's election with traverse of Group I in the reply filed on 8/5/05 is acknowledged. The traversal is on the ground(s) that the examiner's statement "the method of disinfecting or sterilizing a surface could be practiced with another composition, such as bleach," is inaccurate and that the claims in group II, i.e., claims 7-9 and 15-17, are dependent on claim 1 from Group I. This is not found persuasive because Examiner stated in the previous office action "the method of disinfecting or sterilizing a surface could be practiced with another composition, such as bleach." The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). Therefore, the requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5 and 10-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Hoover (US 3,562,157).

Hoover teaches a bactericidal composition comprising malealdehyde (pH 4.0) and hydroquinone (see column 2, table 2, lines 1-12, for example). The intended use of the composition, such as killing all bacterial cells and spores in contact with said composition, does not lend patentable weight to the composition as claimed.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoover (US 3,562,157) as applied to claims 1-5 and 10-13 above, and further in view of Bruckner et al. (US 4,851,449).

Hoover teaches a bactericidal composition comprising malealdehyde (pH 4.0) and hydroquinone (see column 2, table 2, lines 1-12, for example).

Hoover does not teach a composition comprising surfactants, glycols, corrosion inhibitors, antioxidants, sequesterent, odor suppressants, glycols, dye, and fragrance.

Bruckner et al. teaches a disinfecting and sterilizing composition comprising an aromatic dialdehyde further comprising a surfactant, a corrosion inhibitor, an antioxidant, a sequesterent, a dye or a fragrance, and a glycol. Bruckner et al. also teach that using these other ingredients are well known in the art (See column 4, lines 9, lines 30-34, for example).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine an aliphatic dialdehyde with surfactants, glycols, corrosion inhibitors, antioxidants, sequesterent, odor suppressants, glycols, dye, and fragrance.

One of ordinary skill in the art would have been motivated to combine an aliphatic dialdehyde with surfactants, glycols, corrosion inhibitors, antioxidants, sequesterent, odor suppressants, glycols, dye, and fragrance because Hoover teaches a bactericidal composition comprising malealdehyde (pH 4.0) and hydroquinone, and Bruckner et al. teaches 1) a disinfecting and sterilizing composition comprising an aromatic dialdehyde, and other ingredients comprising a surfactant, a corrosion inhibitor, an antioxidant, a sequesterent, a dye or a fragrance, and a glycol, and 2) using these other ingredients is well-known in the art. Therefore, combining a dialdehyde, which is known to be an effective disinfectant, with common additives such as surfactants, glycols, corrosion

Art Unit: 1617

inhibitors, antioxidants, sequesterent, odor suppressants, glycols, dye, and fragrance would have been reasonably expected to be effective for making an effective disinfectant because it is well known in the art to add these additives to dialdehydes to formulate an effective disinfectant or sterilizing agent. Furthermore, Applicant has stated that the said additives are used for their known effect and in concentrations well-known to those in the art.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Felix J. Nepveux whose telephone number is (571) 272-8514. The examiner can normally be reached on m-f 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreeni Padmanabhan can be reached on (571) 272-0629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1617

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Felix J. Nepveux V



SREENI PADMANABHAN
SUPERVISORY PATENT EXAMINER